

NOS SAME AS 8298

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8298-B
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INTERSTATE COMMERCE COMMISSION
INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1976

between

SSI RAIL CORP.

and

BIRMINGHAM TRUST NATIONAL BANK,
not in its individual capacity,
but solely as Trustee under an
Owner Trustee Agreement dated as
of the date hereof with
SCHULER INDUSTRIES, INC.

8298-B

4/22/76

LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1976, between SSI RAIL CORP., a Delaware corporation (hereinafter called the Lessee), and BIRMINGHAM TRUST NATIONAL BANK, not in its individual capacity but solely as Trustee under an Owner Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with SCHULER INDUSTRIES, INC. (said Trust Company so acting hereinafter called the Lessor; said corporation being hereinafter called the Beneficiary).

WHEREAS, the Lessor is entering into a conditional sale agreement dated as of the date hereof with FMC Corporation a Delaware corporation (hereinafter called the Builder) (such agreement being hereinafter called the Security Documentation), wherein the Builder has agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS, the Builder is assigning its interests in the Security Documentation to The Western Saving Fund Society of Philadelphia, as Investor (said Investor being hereinafter together with its successors and assigns called the Vendor) under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, and the Beneficiary; and

WHEREAS, the Lessee desires to lease such number of units of the Equipment as are delivered and accepted and settled for under the Security Documentation (hereinafter called the Units) at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS, ITEL Corporation (hereinafter called the Guarantor) will guarantee Lessee's performance hereunder pursuant to a Guaranty Agreement dated as of the date hereof with the Vendor and the Lessor (hereinafter called the Guaranty Agreement);

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

Section 1. Net Lease. This Lease is a net lease and the Lessee's obligations to pay rent hereunder shall be absolute and unconditional and Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documentation, or against the builder or

the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whatsoever, without limitation, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Documentation. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documentation. Upon such delivery, the Lessee will cause an employee or an Agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and the Lessee shall execute and deliver to the Lessor a certificate of acceptance substantially in the form attached hereto in Schedule C (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Documentation, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with Section 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Documentation pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Lease.

Section 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 61 consecutive quarterly payments payable on July 15, October 15, January 15, and April 15 of each

year commencing July 15, 1976. The rental payment payable on July 15, 1976, shall be in an amount equal to .0297228% of the Purchase Price (as defined in the Security Documentation) of each Unit then subject to this Lease for each day elapsed from the date such Unit is settled for under the Security Documentation to July 15, 1976. The next 60 rental payments shall each be in an amount equal to 2.67505% of the Purchase Price of each Unit then subject to this Lease.

If any of the quarterly rental payment dates referred to above is not a business day the quarterly rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Philadelphia, Pennsylvania, San Francisco, California, New York, New York, or Birmingham, Alabama, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this Section 3 and in Section 7 hereof, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the Security Documentation, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Vendor by 11:00 A.M., local time, on the date such payment is due.

Section 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of Sections 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to Section 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Section 6, 7 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Section 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c, with The Western Saving Fund Society of Philadelphia as Secured Party

and Assignee", "Owned by a Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to such effect. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates or sublessees on railroad equipment used by them of the same or similar type for convenience of identification of the rights thereof to use the Equipment as permitted by law.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

In the event of any assignment or successive assignments by the Vendor of security title to the Equipment and of the Vendor's rights under the Security Documentation with respect thereto, the Lessee will, whenever requested by said assignee, change the markings on each side of each unit of the Equipment so as to indicate the security title of such assignee to the Equipment such markings to be specified by such assignee, subject to any requirements of the laws of the jurisdictions in which the Equipment shall be operated. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Lease shall be borne by the Lessee and, in the event of any assignment of less than all such Equipment, such cost shall be borne by such assignee.

Section 6. Taxes. All payments to be made by the Lessee hereunder will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Lessor and the Beneficiary) to the Lessor for collection or other charges and will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Lessor and the Beneficiary) to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States Federal income tax payable by the Beneficiary in consequence of the receipt of payments provided for herein and

other than the aggregate of all state or local taxes measured by net income based on such receipts, up to the amount of any such taxes based on such receipts which would be payable to the state and locality in which the Beneficiary has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Documentation, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Beneficiary or the Vendor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Lessor and the Beneficiary, adversely affect the title, property or rights of the Lessor or the Beneficiary hereunder or the Vendor under the Security Documentation. The Lessee agrees to give the Lessor and the Beneficiary notice of such contest within 30 days after institution thereof and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Lessor or the Beneficiary directly and paid by the Lessor or the Beneficiary, the Lessee shall reimburse the Lessor or the Beneficiary on presentation of an invoice therefor; provided, however, that the Lessor or the Beneficiary shall have given the Lessee written notice of such imposition prior to such payment.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Vendor or otherwise pursuant to any correlative provision of the Security Documentation not covered by the foregoing paragraph of this Section 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to impositions are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor, the Beneficiary and the Vendor in such Units; provided, however, that

the Lessor and, if applicable, the Beneficiary shall, with respect to any state or political subdivision thereof of the United States of America, file required returns, statements, and reports relating to sales or use taxes, and taxes, fees, and charges on or measured by Lessor's earnings or gross receipts arising from the Units, or the value added by the Lessor thereto, and remit the amount thereof and the Lessee shall reimburse the Lessor or the Beneficiary promptly upon demand for the amount of such taxes, fees and charges except as provided above.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this Section 6, the Lessor and the Beneficiary hereby authorize the Lessee to act in their names and on their behalf; provided, however, that the Lessee shall indemnify and hold the Lessor and the Beneficiary harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor or the Beneficiary, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor and the Beneficiary of the Lessee's performance of its duties under this Section 6. The Lessee shall also furnish promptly upon request such data as the Lessor or the Beneficiary reasonably may require to permit the Lessor's and the Beneficiary's compliance with the requirements of taxing jurisdictions.

Section 7. Maintenance, Casualty Occurrences; Insurance.
The Lessee agrees that, at its own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, returned to the Builder pursuant to the patent indemnity provisions of the Security Documentation, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next

succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the Builder pursuant to the patent indemnity provisions of the Security Documentation in an amount equal to any payment made by the Builder to the Lessor in respect thereof under the Security Documentation.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in the Schedule in Item 1 of Schedule B hereto opposite such date.

The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in Section 16 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item 2 of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein. In the event there is a change in section 38 and related sections of the Code, as defined in Section 16 hereof, during the term of this Lease adjusting the amount of recapture of investment credit, said percentages will be adjusted accordingly.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty

Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

In the event of the requisition for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said Section 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor, the Beneficiary, or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor, the Beneficiary or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor or the Beneficiary.

Except as hereinabove in this Section 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will, or will cause its sublessee or sublessees to, maintain, at their sole cost and expense, at all times during the term of this Lease and any renewals thereof (and thereafter during the first two-month period in which the Units are being assembled and delivered to the locations specified in Section 14 hereof), with reputable insurers acceptable to the Lessor and, so long as any portion of the Conditional Sale Indebtedness under the Security Documentation shall remain outstanding, acceptable to the Vendor, insurance in an amount not less than \$300,000 per occurrence, insuring against loss and destruction of, and damage to, such Unit arising out of fire, windstorm, explosion, and all other hazards and risks ordinarily subject to extended coverage insurance, and against such other hazards and risks as are customarily insured against by companies owning or leasing property of a similar character and engaged in a business similar to that engaged in by Lessee, or, as the case may be, its sublessees, with a deductible amount not in excess of \$1,000 per Unit. All such insurance policies shall (i) name the Lessor

and the Vendor as additional insureds, with losses to be payable to the Lessor, the Vendor, the Lessee, and, as the case may be, Lessee's sublessees as their respective interests may appear, (ii) provide that the policies will not be invalidated as against the Lessor or the Vendor because of any violation of a condition or warranty of the policy or application therefor by the Lessee or any sublessee of the Lessee, (iii) provide that the policies may be materially altered or cancelled by the insurer only after 30 days prior written notice to the Lessor and the Vendor and (iv) provide that the policies shall be prepaid a minimum of 90 days. The Lessee shall deliver or cause to be delivered to the Lessor and the Vendor, prior to the commencement of the lease term for any Unit (or at such other time or times as the Lessor may request) a certificate or other evidence of the maintenance of all such insurance satisfactory to the Lessor and the Vendor; provided, however, that the Lessor and the Vendor shall be under no duty to examine such certificate or other evidence of insurance, or to advise the Lessee or any sublessee of the Lessee in the event that its insurance is not in compliance with this Lease. In the event of failure on the part of the Lessee to provide and furnish any of the aforesaid insurance, the Lessor or the Vendor, upon notice to the Lessee, may procure such insurance and the Lessee shall, upon demand, reimburse the Lessor and the Vendor, or cause the Lessor and the Vendor to be reimbursed, for all expenditures made by the Lessor or the Vendor for such insurance, together with interest thereon computed at the maximum rate of interest permitted by law, but not more than 12% per annum, from the date of the Lessor's or the Vendor's payment until so reimbursed. The insurance policies shall also provide that upon receipt by the insurer from the Lessor or the Vendor of any written notice of the occurrence of an Event of Default hereunder, any proceeds payable by said insurer with respect to any loss or destruction of, or damage to, any Unit, shall be payable solely to the Vendor (or the Lessor after payment of all outstanding Conditional Sale Indebtedness) from the date of said insurer's receipt of such written notice, up to the date said insurer receives written notice from the Vendor or the Lessor that said Event of Default is no longer continuing hereunder.

The Lessee will, or will cause its sublessee or sublessees to, procure and maintain at its expense during the term of this Lease (and any renewals thereof) with insurers satisfactory to the Lessor and the Vendor bodily injury and third party property damage insurance for each Unit with liability limits not less than \$5 million per occurrence; provided, however, that the Lessee will use reasonable efforts to increase the limits of such insurance to \$20 million per occurrence, and provided further that if the net worth of the Guarantor shall fall below \$50 million, Lessee shall increase the limits of such insurance to \$20 million per occurrence. The policies for such insurance shall (i) name the Lessor and the Vendor as additional insureds, as their respective interests may appear, (ii) provide that if the insurers cancel such insurance for any reason whatsoever, or the same is allowed to lapse for non-payment of premium, such cancellation or lapse shall not be effective as to the Lessor or the Vendor for 30 days after receipt by the Lessor and the Vendor of written notice by the insurers of such cancellation or lapse, (iii) provide for at least 30 days prior written notice to the Lessor and the Vendor of any alteration in the terms of such policy

adverse to the respective interests of the Lessor or the Vendor, (iv) provide that in respect of the interests of the Lessor or the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee, or any sublessee of the Lessee, or any other person (other than the Lessor or the Vendor), and all shall insure the Lessor's and the Vendor's interests as they appear regardless of any breach or violation by the Lessee or any sublessee of the Lessee of any warranties, declarations or conditions contained in such policies and (v) expressly by endorsement cover any contractual liability of the Lessee under this Lease.

From time to time upon the expiration date of each policy of such insurance, the Lessee shall furnish or cause to be furnished to the Lessor and the Vendor a certificate signed by a firm of independent insurance brokers, appointed by the Lessee or, as the case may be, a sublessee of the Lessee, and not objected to by the Lessor or the Vendor, showing the insurance then maintained pursuant to this Section 7 with respect to the Units (and the expiration date of each policy of such insurance) and stating the opinion of said firm that the insurance then carried and maintained on or with respect to the Units complies with the terms hereof. In the event that the Lessee shall fail to maintain or cause to be maintained insurance as herein provided, the Lessor, upon notice to the Lessee, may at its option provide such insurance and, in such event, the Lessee shall, upon demand, reimburse the Lessor, or cause the Lessor to be reimbursed, for the cost thereof, together with interest thereon at the rate of 12% per annum.

If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, which proceeds and payments are hereby assigned to the Lessor, the Lessor shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; if such Casualty Value is not paid on the required date, the Lessor may apply said insurance proceeds or condemnation payment to the amount of such Casualty Value payment due. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 8. Reports. On or before March 31 in each year, commencing with the calendar year 1977, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as of the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing

repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by Section 5 hereof and by the Security Documentation have been preserved or replaced, and (c) a certificate of an officer of the Lessee describing any event during the preceding year which constituted, or with the passage of time will constitute, an Event of Default hereunder or, to the knowledge of the Lessee, an event of default under the Security Documentation and, with respect to any event which constituted, or with the passage of time will constitute, an Event of Default, the actions taken, or schedule to be taken, to correct such event and remedy the Event of Default, and (d) an opinion of counsel for the Lessee that to the best knowledge of such counsel either no additional filings of any nature are required under any federal, state or local law with respect to perfection of title to the Units in the Lessor and the Vendor's security title and that all requisite filings, specifying same, have been duly made and are in full force and effect. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

Section 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSEE TAKES EACH UNIT HEREUNDER AS IS AND THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Items 3 and 4 of Annex A of the Security Documentation; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or

performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that prior to the expiration of this Lease or any renewal thereof such laws or rules require any alteration, replacement, addition, or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with the first sentence of this paragraph.

Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit or (iii) which are required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documentation) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor from and against all losses,

damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under the Security Documentation, the Participation Agreement or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, whether as the result of the negligence of any of said parties, the application of the law of strict liability, or otherwise, except as otherwise provided in Section 14 of this Lease or the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Documentation. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

Section 10. Default. IF, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount provided for in Section 3, 7 or 13 hereof, and such default shall continue for ten business days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

C. the insurance to be maintained pursuant to Section 7 hereof shall for any reason not remain in full force and effect as therein provided, unless comparable substitute insurance satisfactory to the Lessor and the Vendor shall be in force;

D. any representation or warranty made by the Lessee herein or in any document or certificate delivered by the Lessee in connection herewith shall prove to be incorrect at any time in any material respect;

E. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part

of the Lessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

F. any proceeding shall be commenced by or against the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or of the Guarantor under the Guaranty Agreement, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceeding in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 30 days after such proceeding shall have been commenced, whichever shall be earlier;

G. an event of default set forth in Article 15 of the Security Documentation shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder;

H. a Reportable Event, as defined in Section 2 of the Participation Agreement, which could adversely and materially affect the ability of the Lessee to perform hereunder shall have occurred and the Lessor shall have declared not less than ten days after the reporting of such Reportable Event to the Lessor, that as a result of such occurrence an Event of Default exists;

I. the Guarantor shall be in default under the Guaranty Agreement or fail to perform thereunder;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the

Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 7% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated plus (B) an amount which, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Beneficiary, be equal to all or such portion of the Investment Credit (as defined in Section 16 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from the Beneficiary as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 16 or any other provision of this Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall cause the Beneficiary's net return under this Lease to be equal to the net return that would have been available to the Beneficiary if it had been entitled to utilization of all or such portion of the ADR Deduction and the Interest Deduction (as such deductions are defined in Section 16 hereof) which were lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 16 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessee or the sale or other disposition of the Lessor's interest in such Unit after the occurrence

of an Event of Default plus such sum as will pay or reimburse the Beneficiary for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability to claim, disallowance or recapture; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit as such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (B) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 11. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on such tracks as the Lessor reasonably may determine or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall pay to the Lessor for each day thereafter an amount equal to .0594456% of the Purchase Price of such Unit.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time. Lessee waives any and all rights to notice and to a hearing with respect to the right of repossession of the Units by the Lessor upon an Event of Default.

Section 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under Sections 6, 7, 9 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiary's and the Lessor's assigns (including the Vendor).

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession, use and quiet enjoyment of the Units in accordance with the terms of this Lease, and may sublease the Units to others, provided, however, that the rights of any such sublessee shall be subject and subordinate to, and any such sublease shall be made expressly subject and subordinate to, all the terms of this Lease and shall include appropriate provisions for the maintenance of any Units subleased thereby, for insuring the Units subleased against total loss or constructive total loss in amounts and against risks customarily insured against by railroad companies on similar equipment, and for the avoidance of such sublease or use of any Units thereunder if the same would result in the Beneficiary losing any portion of the Investment Credit or the ADR Deduction or the Interest Deduction (as defined in Section 16 hereof) which would otherwise be available to the Beneficiary; provided further that on or before transferring possession of any Unit to such sublessee, said sublease shall have been filed with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada. The Lessee agrees not to use or permit the use at any one time of Units having an aggregate Purchase Price in excess of 10% of the aggregate Purchase Price of all the then existing Units in any jurisdiction in which the security title of the Vendor or the title of the Lessor has not been effectively protected. No sublease of any Units shall in any way discharge or diminish any of the Lessee's obligations to the Lessor or Beneficiary hereunder. The Lessee may receive and retain compensation for such use of any of the Units by other railroads in accordance with this paragraph.

The Lessee shall use or cause the use of the Units only in the United States, except that the Lessee may from time to time use or cause to be used in Canada any Units, provided that the Lessee shall not use any Unit or cause, permit, or otherwise allow any Unit to be used in service involving the regular operation and maintenance thereof outside the United States of America. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor, the Beneficiary or the Vendor or resulting from claims against the Lessor, the Beneficiary or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor, the Beneficiary, or the Vendor therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control, any of the Units, except to the extent permitted by the provisions of this Section 12.

The rights of the Lessee under this Lease may not be assigned by the Lessee, except that with the prior written consent of the Lessor Lessee may assign any or all of its rights in the Lease to a third party of reliable standing in the financial community which shall have assumed Lessee's obligations hereunder. Neither the foregoing nor any other provision of this Section 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease

in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Participation Agreement and the Consent (as defined in the Security Documentation)) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and is financially reliable.

Section 13. Renewal Option; Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than 120 days prior to the end of the original term or any extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of no fewer than the number of Units then under a sublessee by the Lessee to a third-party sublessee, for additional two-year periods commencing on the scheduled expiration of the original term or any extended term of this Lease, as the case may be, provided that no such extended term extends beyond July 15, 1999, at a "Fair Market Rental" payable in quarterly payments on October 15, January 15, April 15, and July 15 in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 20 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 10 business days after such notice is given, each party shall appoint an independent appraiser within 10 business days after such notice is given, and the two appraisers so appointed shall within 10 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 10 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall

be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

The Lessor agrees that (provided no default hereunder shall have occurred and be continuing) it will not sell such Units, or any of them, unless the Lessor shall have given the Lessee at least 30 business days' prior written notice of such sale, specifying the sale price and terms of such sale, and the Lessee shall have had the opportunity to purchase such Unit or Units at the same price and on the same terms as specified in such notice, but in no event shall the price hereunder be less than the then fair market value. The foregoing right of the Lessee shall expire 180 days after the termination of this Lease and all renewals thereof.

Upon payment of the purchase price of any Unit, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Vendor, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

Section 14. Return of Units upon Expiration of Term. The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original or extended term of this Lease with respect to any Unit not purchased by the Lessee, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may designate, or, in the absence of such designation as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding two months, the storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, lessee or user, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating

order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall pay to the Lessor for each day thereafter an amount equal to .0297228% of the Purchase Price of such Unit.

Section 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Documentation and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documentation and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Documentation shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

Section 16. Federal Income Taxes. The Beneficiary, as the beneficial owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (herein called the Code), to an owner of property, including, without limitation, the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code based on the aggregate Purchase Price of the Units utilizing the 12-year depreciable life prescribed for the Units in the Asset Guideline Class No. 00.25 in accordance with Section 167(m) of the Code employing the double declining balance method of depreciation, switching to the sum-of-the-years-digits method when most beneficial to the Beneficiary utilizing the half-year or modified half-year convention as provided in Reg.Sec. 1.167(a)-11(c) (2)(iii) and taking into account an estimated

gross salvage value of 10% of the Purchase Price of the Units which will be reduced by 10% of the Purchase Price as provided in Section 167(f) of the Code (such deduction being herein called the ADR Deduction), deductions with respect to interest payable under the Security Documentation pursuant to Section 163 of the Code (such deduction being herein called the Interest Deduction), and the 10% investment credit in 1976 (herein called the Investment Credit) with respect to the aggregate Purchase Price of the Units pursuant to Section 38 and related sections of the Code.

The Lessee represents and warrants that at the time Beneficiary becomes the beneficial owner of any Unit, (i) such Unit will constitute "new Section 38 property" as defined in Section 48(b) of the Code, and at the time the Beneficiary becomes the beneficial owner of such Unit, no portion thereof shall have been used by an person so as to preclude the "original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Beneficiary, and (ii) at all times during the term of this Lease, such Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code, and will not be used predominantly outside the United States within the meaning of said Section 48(a) (including any exception thereto). Upon the Lessee's acceptance of any Unit, such Unit shall have an economically useful life of at least nineteen (19) years after the commencement of the term of this Lease and such Unit can reasonably be expected to have a fair market value at the end of the original term of this Lease of at least 20% of the Purchase Price of such Unit. If the Beneficiary shall (except as herein below provided) fail to have the right to claim or shall lose the right to claim or shall suffer a disallowance of or shall be required to recapture or shall be disallowed the full use of the Investment Credit, the ADR Deduction (without regard to the applicable gross salvage value), or the Interest Deduction, except for any inability to obtain or to have the right to claim such Investment Credit or ADR Deduction or Interest Deduction for any Unit because of the occurrence of any of the following events:

(a) A Casualty Occurrence shall occur with respect to such Unit, whereby the Lessee is required by the terms hereof to pay, and shall pay in full, the appropriate Casualty Value, provided, however, that the indemnities set forth in this Section 16 shall continue in effect, notwithstanding such payment of Casualty Value, with respect to the period prior to the date of payment of said Casualty Value;

(b) At any time while such Unit is leased hereunder, and while no Event of Default under this Lease has occurred and is continuing unremedied (without the written consent of the Lessee), the Lessor or the Beneficiary shall voluntarily or (except in a case constituting a Casualty Occurrence) involuntarily transfer its interest to such Unit to anyone or shall otherwise dispose of any interest in the Unit or shall reduce its interest in the profits from the

Unit, and such transfer, disposal or reduction by the Lessor or the Beneficiary shall be the cause of the Lessor or the Beneficiary's inability to obtain or to have the right to claim or of the disallowance of such Investment Credit, or ADR Deduction or Interest Deduction;

(c) The Beneficiary shall fail to claim the Investment Credit or the ADR Deduction or the Interest Deduction in its income tax returns for the appropriate year or shall fail to follow the proper procedure in claiming the same, and such failure to claim or to follow such procedure, as the case may be, shall preclude the Beneficiary from claiming the Investment Credit or ADR Deduction or Interest Deduction;

(d) The Beneficiary shall fail to have sufficient income to fully benefit from the Investment Credit or ADR Deduction or Interest Deduction;

(e) After a timely written request to conduct such contest has been given by the Lessee to the Beneficiary, the Beneficiary (i) shall fail to take timely action in contesting the claim made by the Internal Revenue Service with respect to the disallowance of any of the Investment Credit or the ADR Deduction or Interest Deduction, and failure to take such action in a timely manner shall preclude the right of the Beneficiary to contest such claim, or (ii) shall fail to take action to contest any such claim; or the Beneficiary shall, without the prior written consent of the Lessee, release, waive, compromise or settle any action or proceeding taken in accordance with this subparagraph (e); provided, however, that the Beneficiary's responsibility to take or refrain from taking any action pursuant to this subparagraph (e) as a precondition to the payment of any indemnity provided by this Section 16 is expressly subject to the Lessee's agreement to indemnify the Lessor and the Beneficiary from any loss, harm or liability arising as a result of the taking or refraining from taking of such action and to the Lessee's agreement to pay all of the Lessor's and the Beneficiary's costs and expenses, including legal expenses, resulting from taking or refraining from taking any such action; or

(f) Any other act solely of the Beneficiary which directly causes the loss of any of the Investment Credit, the ADR Deduction or the Interest Deduction; provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other documents shall not be deemed to have caused the loss of such Investment Credit, the ADR Deduction or Interest Deduction under this subparagraph (f);

then the Lessee shall pay the Lessor as supplemental rent an amount which, after deduction of all taxes required to be paid by the Beneficiary and the Lessor in respect of the receipt thereof under the laws of the United States or any state, city or other political subdivision thereof or any foreign government (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of any other such taxes), in the reasonable opinion of the Beneficiary, will cause the net after-tax return on the Beneficiary's investment in the Units to be equal to the net after-tax return on such investment which the Beneficiary would have realized had the Beneficiary had the full tax benefit of all of the Investment Credit and all of the ADR Deduction and all of the Interest Deduction described in this Section (after taking into account the amount of any interest or penalties which may be assessed against the Beneficiary in connection with the failure to obtain or have the right to claim, or the disallowance of, such Investment Credit or such ADR Deduction or Interest Deduction). The intent of this indemnity is to provide the Beneficiary the same after-tax rate of return as if no such tax benefits had been lost or disallowed. Such supplemental rent shall be payable concurrently with other rent required under this Lease and shall commence on the rental payment date next succeeding the disallowance of the Beneficiary's right to claim or to have the benefit of the Investment Credit or the ADR Deduction or the Interest Deduction contemplated by this Section.

If the cost of any alteration, replacement, modification, improvement, or addition (hereinafter called a Capital Expenditure) to a Unit made by the Lessee, under and pursuant to the terms of this Lease or otherwise, is required to be included in the gross income of the Beneficiary for federal income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, then the rentals for the Units set forth in Section 3 hereof shall, on the next succeeding rental payment date after said inclusion in the Beneficiary's gross income is required, be increased by such amount or amounts as shall, in the reasonable opinion of the Beneficiary, after taking into account any present or future tax benefits that the Beneficiary reasonably anticipates it will derive from its additional investment in the Unit by reason of said inclusion (including without limitation any current deductions, future depreciation deductions and investment tax credit), cause the Beneficiary's net after-tax return to be increased by the portion of said net return lost by the Beneficiary as a result of the inclusion of the cost of such Capital Expenditure in the Beneficiary's gross income. In determining the present or future tax benefits to be taken into account by the Beneficiary in establishing the rental increase required by this paragraph, the Beneficiary shall attempt to maximize such benefits and hence minimize the increase in rents by making such elections (including where advantageous the applicable asset guideline repair allowance and accelerated depreciation, if then permitted) and utilizing such conventions and accounting methods as will further such objectives; provided, however, that the Beneficiary shall not be required to make any election or utilize a

particular convention or accounting method if the Beneficiary determines, in its sole discretion but in good faith, that in so doing it will adversely affect its federal income tax liability determined without regard to this transaction. It is further agreed that the Lessee may claim a deduction for federal income tax purposes of the cost of any such Capital Expenditure which is required to be included in the gross income of the Beneficiary for federal income tax purposes.

In the event any supplemental rent is required to be paid pursuant to this Section, the Casualty Values set forth in Schedule B hereto shall be revised as necessary to preserve the net after-tax return on the Beneficiary's investment in the Units as provided herein above. Notwithstanding anything herein to the contrary, should the Lessee be required to and in fact does make any payment pursuant to the tax indemnification provisions of this Section 16, Lessee shall have the right to determine the forum in which to contest or otherwise challenge the loss or disallowance requiring such payment.

Section 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals or other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 12% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at the address set forth in Item 3 of Schedule B hereto;

(b) if to the Lessee, at Two Embarcadero Center, San Francisco, California 94111, Attention: President;

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or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at Western Savings Bank Building, Broad and Chestnut Streets, Philadelphia, Pennsylvania 19107, Attention John W. York, Vice President, for notices, and Attention Treasurer for funds, and to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, Attention Contract Administration.

Section 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 20. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Assignment hereof to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all right conferred by Section 20c of the Interstate Commerce Act. It is the intent of the parties hereto that this Lease be a true lease and not a security agreement. The parties hereto further agree that time is of the essence with respect to this Lease and the performance of the parties hereunder.

Section 22. Lessor and Beneficiary. Whenever the term "Lessor" is used in this Lease it shall include the Beneficiary and any assignee of the Beneficiary and, where the context so requires, shall refer only to the Beneficiary.

Section 23. Jurisdiction and Process. The Lessee hereby irrevocably submits to the jurisdiction of the courts of the United States of America or of the Commonwealth of Pennsylvania in any legal action or proceeding instituted in any such court arising out of or related to this Lease or the Participation Agreement or the transactions referred to herein or therein. The Lessor hereby waives the personal service of any process upon Lessee and agrees that service of any summons or other legal process upon it may be affected by depositing a copy thereof in the United States mail, postage prepaid, certified or registered, addressed to Lessee at Two Embarcadero Center, San Francisco, California 94111, Attention: President,

and such mailing shall be deemed in every respect effective service upon the Lessee in any such suit or proceeding.

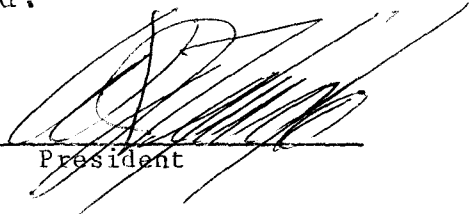
Section 24. Lessor's Liability. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each of and all the representations, covenants, undertakings and agreements herein made on the part of the Owner Trustee are made and intended not as personal representations, covenants, undertakings and agreements by Birmingham Trust National Bank for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said bank not in its own right but solely in the exercise of the powers expressly conferred on it as trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank on account of this Lease or on account of any representations, covenants, undertakings or agreements of the Owner Trustee. The provisions of this paragraph shall inure to the benefit of any successor trustee under the Trust Agreement.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

SSI RAIL CORP.

[Corporate Seal]

By


President

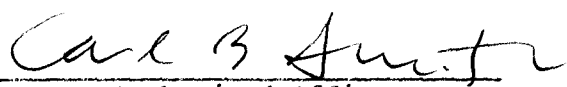
Attest:


Vice President

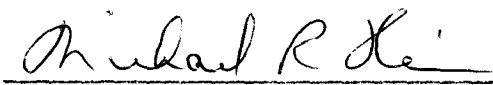
BIRMINGHAM TRUST NATIONAL BANK,
not in its individual capacity but
solely as Trustee,

[Corporate Seal]

By

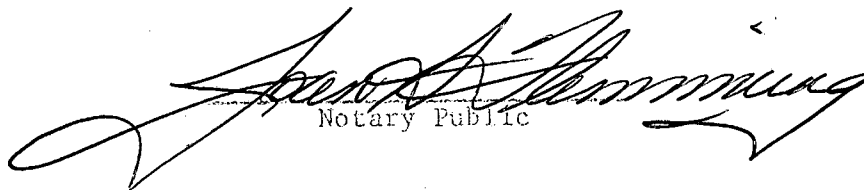

Authorized Officer

Attest:


Authorized Officer

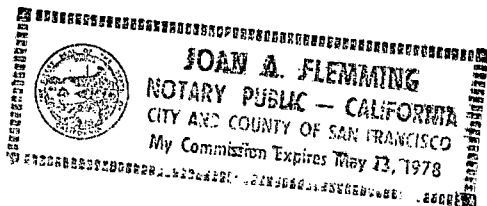
STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF SAN FRANCISCO.)

On this 16th day of April 1976, before me personally appeared William J. Texido, to me personally known, who, being by me duly sworn, says that he is the President of SST RAIL CORP., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

[Notarial Seal]

My Commission Expires:



STATE OF ALABAMA,)
) ss.
COUNTY OF JEFFERSON.)

On this 19th day of April 1976, before me personally appeared CARL B. SMITH, to me personally known, who, being by me duly sworn, says that he is an authorized officer of Birmingham Trust National Bank, that one of the seals affixed to the foregoing instrument is the seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.


Notary Public

[Notarial Seal]

My Commission Expires:

MY COMMISSION EXPIRES OCTOBER 29, 1978

SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Lessee's or Sublessee's Road Numbers (Both Inclusive)</u>
50' XM Boxcars	100	MTW 4000-4049* SRN 5150-5199**

* Road Numbers of Marinette, Tomahawk & Western Railroad

** Road Numbers of Sabine River & Northern Railroad Company

SCHEDULE B TO LEASE

Item 1:	<u>Date</u>	<u>Percentage</u>
	July 15, 1976	86.3857
	October 15, 1976	88.3188
	January 15, 1977	89.4493
	April 15, 1977	90.2893
	July 15, 1977	90.9121
	October 15, 1977	91.3813
	January 15, 1978	91.6846
	April 15, 1978	91.9046
	July 15, 1978	91.9179
	October 15, 1978	91.7742
	January 15, 1979	91.4610
	April 15, 1979	91.0411
	July 15, 1979	90.4052
	October 15, 1979	89.6485
	January 15, 1980	88.8356
	April 15, 1980	87.9929
	July 15, 1980	87.1127
	October 15, 1980	86.1983
	January 15, 1981	85.2491
	April 15, 1981	84.2692
	July 15, 1981	83.2530
	October 15, 1981	82.2027
	January 15, 1982	81.1176
	April 15, 1982	80.0009
	July 15, 1982	78.8490
	October 15, 1982	77.6629
	January 15, 1983	76.4420
	April 15, 1983	75.1885
	July 15, 1983	73.9006
	October 15, 1983	72.5786
	January 15, 1984	71.2215
	April 15, 1984	69.8306
	July 15, 1984	68.4061
	October 15, 1984	66.9473

Item 1:
(Cont'd)

<u>Date</u>	<u>Percentage</u>
January 15, 1985	65.4530
April 15, 1985	63.9236
July 15, 1985	62.3614
October 15, 1985	60.7643
January 15, 1986	59.1313
April 15, 1986	57.4616
July 15, 1986	55.7597
October 15, 1986	54.0223
January 15, 1987	52.2483
April 15, 1987	50.4358
July 15, 1987	48.5915
October 15, 1987	46.7109
January 15, 1988	44.7930
April 15, 1988	42.8344
July 15, 1988	40.8442
October 15, 1988	38.8167
January 15, 1989	36.7507
April 15, 1989	34.6413
July 15, 1989	32.4991
October 15, 1989	30.3578
January 15, 1990	28.3122
April 15, 1990	26.3555
July 15, 1990	24.6439
October 15, 1990	23.1329
January 15, 1991	21.8437
April 15, 1991	20.8115
Thereafter	20.0000

Item 2: Anniversary of
Delivery and
Acceptance

Percentage of
Purchase
Price

Third	19.8808%
Fifth	13.2539%
Seventh	6.6269%

Item 3: Birmingham Trust National Bank
P.O. Box 2554
112 North 20th Street
Birmingham, Alabama 35290
Attention: Carl B. Smith
Vice President